

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 10/6/09

LESLIE MUGAVERO,

Plaintiff,

03 CIVIL 5724 (PGG)

-against-

JUDGMENT

ARMS ACRES, INC. and FREDERICK HESSE, M.D.,
Defendants.

09,1906

A Jury Trial before the Honorable Paul A. Gardephe, United States District Judge, having begun on July 8, 2009, and at the conclusion of the trial, on July 24, 2009, the jury having rendered a verdict in favor of the plaintiff in the total amount of \$1,114,183.00, it is,

ORDERED, ADJUDGED AND DECREED: That the plaintiff have judgment in the sum of \$1,114,183.00 as against the defendants.

DATED: New York, New York

for July, 2009
October 2,

J. MICHAEL McMAHON

So Ordered:

Clerk of Court

Paul S. Sample
U.S.D.J.

BY:

R
Deputy Clerk

THIS DOCUMENT WAS ENTERED
ON THE DOCKET ON _____

Extract of Minutes

United States District Court
Southern District of New York

-----X
Lestie Morgavero

V.

Arms Acres + Frederick Hesse,
Inc. M.D.

03 CV 5724 (PGS)

Docket #

Gazdophe

Judge

-----X
(full title of case required, use other side if necessary)

Appearances : (PLEASE INCLUDE FIRM NAME & TELEPHONE NUMBER)

Plaintiff : Paula Johnson Kelly, 56 Harrison Street
New Rochelle, NY 10801

(914) 632-8382

Defendant : Scott Baker, Jackson Lewis, One North Broadway
White Plains NY 10601

(914) 328-0484

TRIAL: (JURY) (NON-JURY) BEGUN : 7/8/09
(DATE)

Compensatory - \$ 75,000

Compensatory - \$ 75,000

Emotional Distress - \$ 100,000

Last Wages - \$ 468,183

Future Benefits - \$ 46,000

Punitive Damages - \$ 350,000

CLERK

Michael P. Russo

COURT REPORTER

Sonya Huggins

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LESLIE MUGAVERO,

Plaintiff,

-against-

ARMS ACRES, INC. and FREDERICK
HESSE, M.D.,

Defendants.

VERDICT SHEET

03-cv-5724 (PGG)

The jury hereby unanimously makes the following findings:

LIABILITY

Arms Acres

1. Has Plaintiff Leslie Mugavero proven a retaliation claim against Arms Acres with respect to any alleged adverse action listed below?

1a. April 2002 Removal of On-Call Duties	YES <u>✓</u> NO <u> </u>
1b. First Written Warning in 2002	YES <u>✓</u> NO <u> </u>
1c. Second Written Warning in 2002	YES <u>✓</u> NO <u> </u>
1d. Request that Office of Professional Discipline Investigate Plaintiff's Professional Competence	YES <u>✓</u> NO <u> </u>
1e. October 1, 2002 Placement on Administrative Leave With Pay	YES <u>✓</u> NO <u> </u>
1f. October 25, 2002 Termination of Plaintiff's Employment	YES <u>✓</u> NO <u> </u>

If you answered "YES" to any part of Question 1, answer the corresponding part of Question 2 below. (For example, answer Question 2a if, and only if, you answered "YES" to Question 1a.) If you answered "NO" to Questions 1a through 1f, proceed to Question 3.

2. Has Arms Acres proven its affirmative defense to any of Plaintiff Mugavero's retaliation claims?

2a. April 2002 Removal of On-Call Duties	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
2b. First Written Warning in 2002	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
2c. Second Written Warning in 2002	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
2d. Request that Office of Professional Discipline Investigate Plaintiff's Professional Competence	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
2e. October 1, 2002 Placement on Administrative Leave With Pay	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
2f. October 25, 2002 Termination of Plaintiff's Employment	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>

Dr. Hesse

3. Has Plaintiff Leslie Mugavero proven a retaliation claim against Dr. Hesse under a direct liability theory with respect to any alleged adverse action listed below?

3a. April 2002 Removal of On-Call Duties	YES <u>✓</u> NO <u> </u>
3b. First Written Warning in 2002	YES <u>✓</u> NO <u> </u>
3c. Second Written Warning in 2002	YES <u>✓</u> NO <u> </u>
3d. Request that Office of Professional Discipline Investigate Plaintiff's Professional Competence	YES <u>✓</u> NO <u> </u>

If you answered "YES" to any part of Question 3, answer the corresponding part of Question 4 below. (For example, answer Question 3a if you answered "YES" to Question 4a.) If you answered "NO" to Questions 3a through 3d, proceed to Question 5.

4. Has Dr. Hesse proven his affirmative defense to any of Plaintiff Mugavero's retaliation claims?

4a. April 2002 Removal of On-Call Duties	YES <u> </u> NO <u>✓</u>
4b. First Written Warning in 2002	YES <u> </u> NO <u>✓</u>
4c. Second Written Warning in 2002	YES <u> </u> NO <u>✓</u>
4d. Request that Office of Professional Discipline Investigate Plaintiff's Professional Competence	YES <u> </u> NO <u>✓</u>

Answer Questions 5a-5d only if you answered "YES" to the corresponding part of Question 1, "NO" to the corresponding part of Question 2, and "NO" to the corresponding part of Question 3. (For example, answer Question 5a only if you answered "YES" to Question 1a, "NO" to Question 2a, and "NO" to Question 3a.) Answer Questions 5e and 5f only if you answered "YES" to the corresponding part of Question 1 and "NO" to the corresponding part of Question 2.

5. Has Plaintiff Leslie Mugavero proven that Dr. Hesse aided and abetted retaliation against her with respect to any alleged adverse action listed below?

5a. April 2002 Removal of On-Call Duties	YES _____ NO _____
5b. First Written Warning in 2002	YES _____ NO _____
5c. Second Written Warning in 2002	YES _____ NO _____
5d. Request that Office of Professional Discipline Investigate Plaintiff's Professional Competence	YES _____ NO _____
5e. October 1, 2002 Placement on Administrative Leave With Pay	YES <u>✓</u> NO _____
5f. October 25, 2002 Termination of Plaintiff's Employment	YES <u>✓</u> NO _____

DAMAGES

If you answered "YES" to any part of Question 1 and answered "NO" to the corresponding part of Question 2, or if you answered "YES" to any part of Question 3 and answered "NO" to the corresponding part of Question 4, answer the corresponding part of Question 6. (For example, answer Question 6a only if you answered "YES" to Question 1a and answered "NO" to Question 2a, or if you answered "YES" to Question 3a and answered "NO" to Question 4a.)

6. Has Plaintiff Leslie Mugavero proven that she suffered actual compensatory damages with respect to any of the following claims?

6a. April 2002 Removal of On-Call Duties YES _____ NO ✓

If "YES" to Question 6a, state the amount that should be awarded as compensatory damages for that claim.

Emotional Distress: \$ _____

Economic Damages: \$ _____

6b. First Written Warning in 2002 YES _____ NO ✓

If "YES" to Question 6b, state the amount that should be awarded as compensatory damages for that claim.

Emotional Distress: \$ _____

6c. Second Written Warning in 2002 YES _____ NO ✓

If "YES" to Question 6c, state the amount that should be awarded as compensatory damages for that claim.

Emotional Distress: \$ _____

6d. Request that Office of Professional Discipline Investigate Plaintiff's Professional Competence YES ✓ NO _____

If "YES" to Question 6d, state the amount that should be awarded as compensatory damages for that claim.

Emotional Distress: \$ 75,000

6e. October 1, 2002 Placement on Administrative Leave With Pay YES ☒ NO ☐

If "YES" to Question 6e, state the amount that should be awarded as compensatory damages for that claim.

Emotional Distress: \$ 75,000

6f. October 25, 2002 Termination of Plaintiff's Employment YES ☒ NO ☐

i. If "YES" to Question 6f, state the amount that should be awarded as compensatory damages for that claim.

Emotional Distress: \$ 100,000

Lost Wages: \$ 468,183

Fringe Benefits: \$ 46,000

If you awarded lost wages and/or fringe benefits in (i) above, continue to (ii) below. Otherwise, proceed to Question 7.

ii. In awarding lost wages and/or fringe benefits, did you find that Arms Acres has proven its after-acquired evidence defense?

YES ☐ NO ☒

If "YES," proceed to (iii) below.

iii. After what date did you find that Plaintiff was not entitled to lost wages or fringe benefits? (Mark the date that is applicable.)

April 15, 2004 ☐

August 14, 2004 ☐

If you answered "YES" to any of Question 1a-1d, answered "NO" to the corresponding part of Questions 2a-2d, and answered "YES" to the corresponding part of Questions 6a-6d, then you should answer the corresponding part of Question 7. (For example, answer Question 7a only if you answered "YES" to Question 1a, "NO" to Question 2a, and "YES" to Question 6a.)

7. Should punitive damages be awarded against Arms Acres?

7a. April 2002 Removal of On-Call Duties YES _____ NO ☒

If "YES" to Question 7a, state the amount that should be awarded as punitive damages for that claim.

\$ _____

7b. First Written Warning in 2002 YES _____ NO ☒

If "YES" to Question 7b, state the amount that should be awarded as punitive damages for that claim.

\$ _____

7c. Second Written Warning in 2002 YES _____ NO ☒

If "YES" to Question 7c, state the amount that should be awarded as punitive damages for that claim.

\$ _____

7d. Request that Office of Professional Discipline Investigate Plaintiff's Professional Competence YES ☒ NO _____

If "YES" to Question 7d, state the amount that should be awarded as punitive damages for that claim.

\$ 350,000.00

After completing this form, the Foreperson should sign and date it, place it in an envelope, and inform the Marshal that the jury has reached a verdict.

Dated: 7/24/2009

Lonnie H. Sigward
Signature of Foreperson